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14 STATE OF CALIFORNIA  
15 STATE WATER RESOURCES CONTROL BOARD

16 In the Matter of the Petition of NRDC, Santa  
17 Lucia Chapter of the Sierra Club, The Otter  
18 Project, The Environmental Center of San Luis  
19 Obispo, and Surfrider Foundation, For  
20 Review of Action by the California Regional  
21 Water Quality Control Board, Central Coast  
22 Region In Approving the County of San Luis  
23 Obispo Storm Water Management Program  
24 Resolution No. R3-2007-0019

25 PETITION FOR  
26 REVIEW OF CENTRAL  
27 COAST REGIONAL WATER  
28 QUALITY CONTROL  
BOARD ACTION OF  
ADOPTING RESOLUTION  
NO. R3-2007-0019

29 Introduction

30 In accordance with section 13320 of the California Water Code and section 2050 of Title  
31 23 of the California Code of Regulations, The Natural Resources Defense Council ("NRDC"),  
32 Santa Lucia Chapter of the Sierra Club, The Otter Project, The Environmental Center of San Luis  
33 Obispo, and Surfrider Foundation (collectively "Petitioners") hereby petition the State Water  
34 Resources Control Board ("State Board") to review the March 23, 2007 final decision of the  
35 California Regional Water Quality Control Board for the Central Coast Region ("Regional Board")

1 approving the Storm Water Management Program for the County of San Luis Obispo (the  
2 “County”), Resolution R3-2007-0019.

3 The San Luis Obispo County Storm Water Management Program (“SWMP”) is required  
4 by, and must comply with, the Waste Discharge Requirements for Storm Water Discharges from  
5 Small Municipal Separate Storm Sewer Systems. *See* General Permit.<sup>1</sup> The SWMP is the  
6 operative document whereby designees who fall under the General Permit detail how they will  
7 reduce pollutant discharges to the Maximum Extent Practicable (“MEP”) and protect water  
8 quality.

9 The General Permit specifies that a SWMP must commit to implementation of Best  
10 Management Practices (“BMPs”) to address six Minimum Control Measures (“MCMs”),  
11 including: Public Education and Outreach; Public Involvement/Participation; Illicit Discharge  
12 Detection and Elimination; Construction Site Storm Water Runoff Control; Post-Construction  
13 Storm Water Management in New Development and Redevelopment; and Pollution  
14 Prevention/Good Housekeeping for Municipal Operations. *See* General Permit at 8-13,  
15 Attachment 4; 40 C.F.R. § 122.34. The SWMP must detail commitment and implementation of  
16 MCMs accompanied with measurable goals and implementation time schedules. Ultimately, the  
17 SWMP must ensure compliance with water quality standards.

18 The petition is brought to remedy both substantive and procedural violations.  
19 Substantively, the SWMP fails to meet the federal and state requirements as set forth in the  
20 General Permit, the Clean Water Act, and the Porter-Cologne Act. Specifically, the SWMP fails  
21 to meet the Maximum Extent Practicable standard and protect water quality because it lacks  
22 specificity and commitments in critical components of the program, as enumerated in Section 4,  
23 *infra*. *See* 33 U.S.C. § 1342(p)(3)(B)(iii); 40 C.F.R. § 126.34; *Environmental Defense Ctr. v. EPA*,  
24 344 F.3d 832 (9th Cir. 2003); *Building Indus. Ass’n v. State Water Res. Control Bd.*, 124 Cal. App.  
25 4th 866 (2004); *Defenders of Wildlife v. Browner*, 191 F.3d 1159 (9th Cir. 1999). Procedurally, in  
26  
27

28 <sup>1</sup> SWRCB Water Quality Order NO. 2003-0005-DWQ; NPDES General Permit No. CAS000004.

1 adopting the weak SWMP, the Regional Board violated fundamental public participation,  
2 procedural and fair hearing obligations, also enumerated in Section 4, *infra*. See 40 C.F.R.  
3 §§ 25.3, 25.5; Cal. Water Code §§ 13384, 13801; *Environmental Defense Ctr. v. EPA*, 344 F.3d  
4 832 (9th Cir. 2003); Cal. Code Regs. tit. 23 § 11384. Despite publicly recognizing these points as  
5 true during the adoption process, the Regional Board nonetheless inappropriately and illegally  
6 approved the program.

#### 7 Summary of Factual Background and Relevant Time Periods

8 On October 14, 2004, the Regional Board first noticed San Luis Obispo County's SWMP,  
9 with a 60-day comment deadline. NRDC, and other interested parties, submitted timely comment  
10 letters that described in detail the numerous inadequacies of the County's SWMP. See, e.g.,  
11 NRDC letter to Regional Board (Dec. 10, 2004).

12 In June 2006, the County resubmitted a revised SWMP. The Regional Board staff noticed  
13 the County's June 2006 Proposal for a storm water management program on August 22, 2006,  
14 with a comment deadline of October 6, 2006, and scheduled a hearing for December 1, 2006.  
15 Comment letters challenging the adequacy of the Proposal and requesting a formal hearing were  
16 again submitted by Petitioners as well as by other individuals and groups. See, e.g., Letter from  
17 NRDC to Regional Board (Oct. 5, 2006). Once again, these comment letters included detailed  
18 suggestions for significantly improving the County Proposal (so that it could, *inter alia*, achieve  
19 the "maximum extent practicable" standard), and attached supporting documents as a basis for  
20 their comments.

21 Prior to the Proposal's scheduled December 2006 hearing, however, the board bizarrely  
22 and without reason cancelled this hearing. Several months later, the Regional Board posted a draft  
23 resolution approving the County Proposal, requested public comments that related *only* to the draft  
24 resolution – and not to the Proposal itself – and rescheduled the hearing for March 23, 2007. As  
25 before, the environmental groups timely submitted another round of comment letters. See, e.g.,  
26 Letter from NRDC to Regional Board (Feb. 26, 2007).

27 The schizophrenic resolution, on the one hand contained a finding that the County Proposal  
28 "will meet or exceed MEP in the initial permit term," while at the same time recommended that 40

1 *substantive* additions and/or amendments to the Proposal be completed. State of California  
2 Regional Water Quality Control Board Central Coast Region, Staff Report for Regular Meeting of  
3 March 23, 2007 at 8-12 ("Staff Report"). However, these amendments contained directives that  
4 were often just as vague and incomplete as the terms of the Proposal itself. *See id.*

5 At its March 23, 2007 hearing, the Regional Board approved the San Luis Obispo SWMP  
6 Proposal and Resolution R3-2007-0019. After a detailed presentation by Petitioners, as well as  
7 comments by the public and stakeholders, a majority of the Board explicitly and on the record,  
8 recognized failures of the County Proposal to meet General Permit requirements. In particular, the  
9 Board recognized the lack of details and vagueness in the SWMP, including many instances in  
10 which entire program components had yet to be developed.

11 Nonetheless, the Board approved the SWMP. It attempted to justify its approval on the  
12 notion that inadequacies in the SWMP could be addressed at a later date either through the changes  
13 required in the approval resolution, or in response to annual reports throughout the five-year  
14 permit term—even though no formal hearing would be held at any other stage. The Board also  
15 dismissed the repeated objections to its process for the SWMP as well as to the region overall. In  
16 sum, the Board approved the SWMP at the March 23, 2007 hearing—even though it knew that a  
17 stronger program was feasible and practicable for the County.

18  
19 1. PETITIONERS' NAMES, ADDRESSES, TELEPHONE NUMBERS, AND EMAIL  
20 ADDRESSES:

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7 SURFRIDER FOUNDATION  
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11 2. THE ACTION OR INACTION OF THE REGIONAL BOARD BEING PETITIONED  
12 INCLUDING A COPY OF THE ACTION BEING CHALLENGED:

13 Petitioners seek review of the Regional Board's March 23, 2007 approval of the County of  
14 San Luis Obispo Storm Water Management Program, Resolution No. R3-2007-0019. A copy of  
15 the Resolution is attached to this petition.

17 3. THE DATE ON WHICH THE REGIONAL BOARD ACTED:

18 March 23, 2007.

20 4. A STATEMENT OF THE REASONS THE ACTION WAS INAPPROPRIATE OR  
21 IMPROPER:

22 In approving the SWMP, the Regional Board failed to act in accordance with relevant  
23 governing law, acted arbitrarily and capriciously, without substantial evidence, and without  
24 adequate findings as discussed in detail in the Petitioners' Memorandum of Points and Authorities  
25 In Support of Petition for Review. Specifically, but without limitation, the Regional Board:

- 1 A. Failed to comply with the mandates of *Environmental Defense Ctr. V. EPA*,  
2 344 F.3d 832 (9th Cir. 2003), by acknowledging insufficiencies with the  
3 final draft SWMP and mandating rectification via resolution without  
4 appropriate opportunity for public review and comment of a final document.  
5 See 33 U.S.C. § 1342(a)(1); 40 C.F.R. § 122.34(b); *Armstrong v. Manzo*,  
6 380 U.S. 545, 552 (1965) (discussing failure to provide adequate public  
7 opportunity to be heard “in a meaningful manner.”);
- 8 B. Failed to make sufficient findings “to bridge the analytical gap between the  
9 raw evidence and ultimate decision”—approval of the SWMP. *Topanga*  
10 *Assn. for Scenic Cnty. V. County of Los Angeles*, 11 Cal. 3d 506, 515  
11 (1974). The Board acted arbitrarily and capriciously because the ultimate  
12 decision of adopting the SWMP is not supported by the findings, the  
13 findings are not supported by the weight of the evidence in the  
14 administrative record, and the administrative record does not support the  
15 ultimate decision adopting the SWMP, thus, resulting in an abuse of  
16 discretion. See *id.*; Cal. Civ. Proc. Code § 1094.5.
- 17 C. Failed to assure that the SWMP’s components satisfy the Clean Water Act’s  
18 mandate to require “controls to reduce the discharge of pollutants to the  
19 maximum extent practicable.” General Permit Fact Sheet at 8-9; General  
20 Permit, Finding 14; General Permit ¶ D.1; 33 U.S.C. § 1342(p)(3)(B)(iii);  
21 40 C.F.R. §§ 122.34(a)-(b), 122.26; *Environmental Defense Ctr. V. EPA*,  
22 344 F.3d 832 (9<sup>th</sup> Cir. 2003); *Building Indus. Ass’n v. State Water Res.*  
23 *Control Bd.*, 124 Cal. App. 4<sup>th</sup> 866 (2004); *Defenders of Wildlife v.*  
24 *Browner*, 191 F.3d 1159 (9<sup>th</sup> Cir. 1999).
- 25 • SWMP inappropriately deferred development of numerous plans.
  - 26 • SWMP failed to meet MEP regarding water quality monitoring.
  - 27 • SWMP failed to meet MEP regarding illicit connection and illegal
  - 28 discharge detection and elimination.

- SWMP failed to meet MEP regarding industrial and commercial inspection commitment and frequency.
- SWMP failed to meet MEP regarding a comprehensive construction site storm water runoff control program.
- SWMP failed to meet MEP regarding identification of minimum BMP requirements for all construction sites.
- SWMP failed to meet MEP regarding identification of construction sites to which SWMP applies.
- SWMP failed to meet MEP regarding review of construction site Storm Water Pollution Prevention Plans.
- SWMP failed to meet MEP regarding construction site inspection frequency.
- SWMP failed to meet MEP regarding a comprehensive post-construction storm water management in new development and redevelopment component.
- SWMP failed to meet MEP regarding details to assess compliance with General Permit Attachment 4 (post-construction BMP implementation and maintenance).
- SWMP failed to assure control of storm water pollution impacts on environmentally sensitive areas, areas of special biological significance, and endangered or threatened species, such as the California sea otter.
- SWMP failed to assure compliance with receiving water limitations language in the General Permit, Attachment 4.

D. Failed to recognize the “iterative process” as a remedy for BMP failure to achieve MEP water quality standards and instead applied the concept to the process of developing a SWMP. *See* General Permit Fact Sheet at 8-10 (description of iterative process as applied to MEP and Receiving Water

1 Limitations); General Permit Fact Sheet at 7 (regarding full implementation  
2 of SWMP by end of permit term); *accord* General Permit, Findings 17, 19;

3 E. Failed to assure that the SWMP and underlying programs contained therein,  
4 would prevent regulated discharges from causing or contributing to  
5 violations of water quality standards. *See* General Permit Fact Sheet at 10;

6 F. Failed to respond adequately to factually and legally specific comments  
7 from public interest organizations concerning the most highly significant  
8 matters at issue, such as the SWMP's compliance with the maximum extent  
9 practicable standard and other related matters. *See* 33 U.S.C. § 1342(a)(1);  
10 40 C.F.R. § 25.5; 40 CFR § 122.34(b);

11 G. Acted in approving the SWMP in these respects without evidence in the  
12 record and based upon facially inaccurate and misleading analyses by staff.  
13 Cal. Civ. Proc. Code § 1094.5;

14 H. Failed to act in accordance with federal and state agency policy, which  
15 states that:

16 (1) Public agencies should encourage full presentation of issues at  
17 an early stage so that they can be resolved and timely decisions can  
18 be made;

19 (2) The government should not make any significant decision on  
20 any activity covered by this part without consulting interested and  
21 affected segments of the public;

22 (3) Government action should be as responsive as possible to public  
23 concerns;

24 (4) Public involvement in implementing environmental laws should  
25 be encouraged;

26 (5) The public should be kept informed about significant issues and  
27 proposed project or program changes as they arise;  
28



(6) All feasible means should be used to create opportunities for public participation, and to stimulate and support participation; and  
(7) Agencies should foster a spirit of openness and mutual trust among EPA, States, substate agencies and the public. *See* 40 C.F.R. § 25.3;

- I. Failed to provide adequate public notice and opportunity to be heard “at a meaningful time and in a meaningful manner.” *See Armstrong v. Manzo*, 380 U.S. 545, 552 (1965); *Gross v. Lopez*, 419 U.S. 565 (1975) (notice of action and facts on which it is based); 40 C.F.R. §§ 25.4; 124.10; 124.12; Cal. Gov’t Code § 11425.10; and
- J. Failed to provide a fair hearing, including fair procedure, in accordance with Cal. Civ. Pro. Code § 1094.5, which governs the inquiry into the validity of any final administrative order or decision made as the result of a proceeding in which by law a hearing is required to be given. “The inquiry in such a case shall extend to the questions whether . . . there was any prejudicial abuse of discretion. Abuse of discretion is established if the respondent has not proceeded in the manner required by law, the order or decision is not supported by the findings, or the findings are not supported by the evidence.” Cal. Civ. Pro. Code § 1094.5(b); *see also Morgan v. U.S.*, 304 U.S. 1, 18 (1938) (stating that fairness requirement extends not only to the hearing but also to all procedures before and after the hearing).

5. HOW THE PETITIONERS ARE AGGRIEVED:

Petitioners are non-profit, environmental organizations that have a direct interest in protecting, *inter alia*, the quality of waters in San Luis Obispo County, including the waters of the Morro Bay National Estuary. NRDC represents approximately 130,000 members in California, thousands of whom reside in San Luis Obispo County. The Santa Lucia Chapter of the Sierra Club is a non-profit, grassroots environmental organization, dedicated to protecting the wild places of

1 the earth, and promoting the responsible use of the earth's ecosystems and resources. The Otter  
2 Project is a non-profit organization dedicated to promoting the rapid recovery of the California sea  
3 otter, whose range includes the waters off San Luis Obispo County. The Environmental Center of  
4 San Luis Obispo is a non-profit, membership organization that is dedicated to the protection and  
5 enhancement of the natural environment and human well-being through community based action,  
6 advocacy and education. Surfrider Foundation is a grassroots, non-profit organization that works  
7 to protect the nations oceans, waves, and beaches. Petitioners' members are aggrieved by the  
8 SWMP's inadequacy and, thereby, the County's inability to control polluted urban runoff or to  
9 protect the beneficial uses of receiving waters in accordance with the Clean Water Act. In  
10 particular, Petitioners' members directly benefit from San Luis Obispo County waters in the form  
11 of recreational fishing, hiking, swimming, photography, bird watching, surfing, and boating.

12 The Regional Board's failure to control urban storm water runoff through this SWMP has  
13 enormous consequences for the region and its residents. Urban storm water runoff, one of the  
14 largest sources of pollution to the coastal and other receiving waters of the nation, is a known  
15 problem in the San Luis Obispo region. Pollutants conveyed in storm water and urban runoff  
16 (collectively referred to as "storm water") now constitute one of the greatest sources of pollution to  
17 the region's waterways. Consequently, storm water pollution, which not only harms the  
18 environment, but also has been shown to cause serious human health impacts, is the most severe  
19 water quality problem facing the region.

20 In the past three decades, mass emissions of urban runoff-borne pollutants have increased  
21 dramatically in urban and suburban areas of Central California. Additionally, several studies  
22 suggest a causal relationship between gastro-intestinal symptoms and recreational water quality.  
23 In this connection, storm water quality can greatly impact swimming and fishing, (both major  
24 recreational beneficial uses of San Luis Obispo County waters), because pathogens carried by the  
25 storm water into the surf zone degrade water quality to the extent that it is unsafe for human  
26 contact. Further, the high concentrations of pollutants in storm water pollution adversely impact  
27 marine animals and plant life in San Luis Obispo County waters. Because these beaches attract  
28 numerous visits from both residents and tourists each year, the magnitude of this problem is

1 considerable. Ultimately, storm water pollution can also translate into significant economic losses,  
2 considering the economy of San Luis Obispo County relies heavily on coastal tourism.

3 In sum, these documented facts demonstrate the considerable negative impact on  
4 Petitioners' members and the environment that continues today as a result of the Regional Board's  
5 inability to control storm water pollution through the SWMP.

6  
7 6. THE ACTION PETITIONERS REQUEST THE STATE BOARD TO TAKE.

8 Petitioners seek an Order by the State Board that:

9 Overtakes the Regional Board's approval of the Storm Water Management Program  
10 for the County of San Luis Obispo, Resolution No. R3-2007-0019.

11 Remands the matter to the Regional Board with specific direction to remedy each of  
12 its violations of law as further described herein.

13 7. A STATEMENT OF POINTS AND AUTHORITIES FOR ANY LEGAL ISSUES  
14 RAISED IN THE PETITION, INCLUDING CITATIONS TO DOCUMENTS THAT ARE  
15 REFERRED TO.

16 See section 4, *supra*, and Petitioners' concurrently filed Memorandum of Points and  
17 Authorities In Support of Petition for Review of Central Coast Regional Water Quality Control  
18 Board Action of Adopting Resolution No. R3-2007-0019.

19  
20 8. A STATEMENT THAT COPIES OF THE PETITION HAVE BEEN SENT TO THE  
21 REGIONAL BOARD AND TO THE DISCHARGER,

22 A true and correct copy of this petition was sent via First Class mail on April 20, 2007 to  
23 the Regional Board and Permittee at the following addresses:

24 Roger Briggs, Executive Officer  
25 California Regional Water Quality Control Board  
26 Central Coast Region  
27 895 Aerovista Place  
28 Suite 101  
San Luis Obispo, CA 93401

Jill Falcone  
Stormwater Pollution Prevention Coordinator  
County of San Luis Obispo  
Department of Public Works  
Environmental Programs Division  
County Government Center, Room 207  
San Luis Obispo, CA 93408

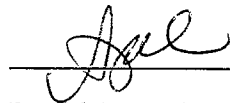
9. A STATEMENT THAT THE ISSUES RAISED IN THE PETITION WERE PRESENTED TO THE REGIONAL BOARD BEFORE THE REGIONAL BOARD ACTED, OR AN EXPLANATION OF WHY THE PETITIONER COULD NOT RAISE THOSE OBJECTIONS BEFORE THE REGIONAL BOARD.

Petitioners made every effort to resolve this matter before the Regional Board. The issues relevant to this Petition were raised prior to the March 23, 2007 hearing during in-person meetings and in writing. These issues were further presented orally and through a power point presentation at the March 23rd hearing. A copy of the power point presentation is part of the administrative record in this matter.

Respectfully submitted via electronic mail and U.S. Mail.

Dated: April 20 2007

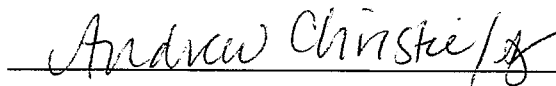
NATURAL RESOURCES DEFENSE COUNCIL, INC.



David S. Beckman  
Anjali I. Jaiswal  
Joshua D. Taylor  
Counsel for the Natural Resources Defense Council, Inc.

Dated: April 20 2007

SANTA LUCIA CHAPTER OF THE SIERRA CLUB



Andrew Christie

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Dated: April 20, 2007

THE OTTER PROJECT



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Steve Shimek

Dated: April 20, 2007

THE ENVIRONMENTAL CENTER OF SAN LUIS OBISPO



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Morgan Rafferty

Dated: April 20, 2007

SURFRIDER FOUNDATION



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Sarah Corbin

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL COAST REGION  
895 Aerovista Place, Suite 101  
San Luis Obispo, California**

**RESOLUTION NO. R3-2007-0019  
March 23, 2007**

**County of San Luis Obispo Storm Water Management Program  
San Luis Obispo County**

The Regional Water Quality Control Board, Central Coast Region ("Water Board" or "Central Coast Water Board") finds:

1. On December 8, 1999, the U.S. Environmental Protection Agency ("EPA") promulgated regulations under authority of the Clean Water Act ("CWA") Section 402(p)(6). These regulations required NPDES storm water permits for operators of small municipal separate storm sewer systems ("Small MS4s") that discharge to waters of the U.S.
2. On April 30, 2003, the State Water Resources Control Board ("State Water Board") adopted Order No. 2003-0005 DWQ (NPDES Permit No. CAS0000004) Waste Discharge Requirements for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems ("General Permit").
3. The General Permit requires regulated Small MS4s to develop a storm water management program ("SWMP") designed to reduce pollutant discharge to the maximum extent practicable ("MEP") and to protect water quality. The SWMP must contain Best Management Practices ("BMPs") that address six Minimum Control Measures. SWMPs must incorporate measurable goals and implementation time schedules, and must be available for public review and comment and are subject to a public hearing if requested prior to approval. Upon approval of a SWMP by the appropriate regional water quality control board or its Executive Officer, permit applicants obtain coverage under the General Permit.
4. The State Water Board found, and the Central Coast Water Board concurs, that implementing storm water quality programs that address the six Minimum Control Measures in previously unregulated areas will decrease the pollutant loading to the receiving waters and improve water quality.

5. The State Water Board found the General Permit to be consistent with the anti-degradation policies of 40 CFR Section 131.12, SWRCB Resolution 68-16, and the Central Coast Water Board's Basin Plan.
6. This action to approve the County of San Luis Obispo SWMP is exempt from the California Environmental Quality Act pursuant to Water Code Section 13389.
7. The County of San Luis Obispo evaluated local water quality, BMP applicability, expected BMP effectiveness, and technical and economic feasibility in developing the SWMP. Specific BMPs were identified from community input, review of other programs, and evaluation of various BMP manuals and lists.
8. The County of San Luis Obispo submitted a SWMP and Notice of Intent to comply with the General Permit on March 10, 2003. In response to Water Board staff review and comments, the County prepared three revised SWMPs.
9. Following public notice in accordance with State and federal laws and regulations, the Water Board, in a public hearing on March 23, 2007, heard and considered all comments on the SWMP.
10. The Water Board finds that the SWMP is designed to reduce the discharge of pollutants to the MEP standard established in the General Permit for these reasons: 1) The SWMP meets and/or exceeds the Phase II General Permit requirements for all six Minimum Control Measures; 2) The chosen BMPs address both the research-based urban pollutants, and the locally-documented pollutants of concern; 3) the SWMP employs all applicable BMPs except those that are not technically feasible in the locality, or whose cost would exceed the benefit to be derived, or where other selected BMPs achieve the same water quality protection or serve the same purpose, or where the cost of the BMPs would be prohibitive; and 4) the five-year program prescribed by the SWMP provides a logical progression of BMP implementation to meet a full program realization within the permit term.
11. Attachment 4 of the General Permit includes Design Standards that apply to traditional and nontraditional Small MS4s serving a population of 50,000 people or more, or that are subject to high growth<sup>1</sup>. Attachment 4 addresses post-construction requirements and compliance with water quality standards. It also includes receiving water limits necessary to protect water quality. The County of San Luis Obispo meets the Attachment 4 designation criteria. The SWMP requires the County to comply with Attachment 4.

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<sup>1</sup> "High growth" is defined by the Permit as areas which have experienced more than 25% population growth over years 1990 – 2000, or are expected to grow more than 25% between 1999 – 2009.

12. Section 402(p)(3)(B)(iii) of the Clean Water Act requires controls that reduce pollutants to MEP, and "such other provisions as the Administrator or the State determines appropriate for the control of such pollutants." The General Permit requires permittees to develop a SWMP designed to reduce the discharge of pollutants to MEP and to protect water quality. (General Permit Finding 14, page 3 and Provision D, pg.8.)
13. The General Permit allows permittees five years from the date of SWMP approval to fully implement the SWMP.
14. The SWMP requires the County of San Luis Obispo to develop and implement programs and model ordinances within five years to achieve MEP. The specific provisions of some of these programs will be developed after SWMP approval, and will be subject to public review. The General Permit allows the Executive Officer to require changes to the SWMP (including the model ordinances and other program details) as necessary to meet the MEP standard, and to require additional monitoring and reporting.
15. Some of the SWMP elements that the County will develop during the permit term are ordinances regulating illicit discharges, construction and post-construction; a Low Impact Development (LID) Design Manual; and inspection programs. The County has obtained grant funding for the LID Design Manual. "Low impact development" generally refers to construction design features that reduce the volume of stormwater runoff and reduce pollutant loads in stormwater runoff. This design approach incorporates large-scale planning with small-scale management techniques to achieve environmental protection, while allowing for development or infrastructure rehabilitation to occur. The goal of LID is to mimic a site's predevelopment hydrology by maintaining characteristics of stormwater runoff, in quality, rate, and quantity. Design techniques aim to infiltrate, filter, store, evaporate, and detain stormwater close to its source. In addition to micro-scale engineered features, strategies include the preservation/protection of environmentally sensitive site features such as riparian buffers, wetlands, steep slopes, mature trees, flood plains, woodlands, and highly permeable soils. LID is a versatile approach that can be applied equally well to new development, urban retrofits, and redevelopment / revitalization projects. The MEP standard requires implementation of LID techniques.
16. The SWMP requires the County to develop an LID incentive program by Year 2. By approving the SWMP, the Water Board is not concluding that a LID incentive program alone, as opposed to mandatory LID standards, is adequate to satisfy MEP. The Water Board or Water Board staff will determine the adequacy of the proposed stormwater ordinances and LID Design Manual as part of Annual Report review, or otherwise.



**THEREFORE, BE IT RESOLVED THAT:**

1. The Central Coast Water Board hereby approves the County of San Luis Obispo Storm Water Management Plan, subject to Paragraph 2. Coverage under the General Permit commences on the date this Resolution is adopted.
2. Pursuant to Section G of the General Permit, the County of San Luis Obispo is required to amend the SWMP no later than April 30, 2007, to include the following provisions. Failure to make these revisions may subject the County of San Luis Obispo to enforcement action:
  - a. BMP PE3A indicates the County will reach 180,000 households with public service announcements. The BMP should state the County will reach 180,000 **individuals** instead of households.
  - b. BMP PE 8A must include the following language: "One acre or more in size and smaller projects that are part of a larger common plan of development that is one acre or larger for all purposes under this SWMP."
  - c. BMPs PE 10B and PE10C must clarify that the County will provide the activity books for **all** pre-school through grade one children and the educational materials and activities for **all** pre-school through grade six children enrolled in public schools within the permit coverage area.
  - d. The County must specify the number and type of public events at which Sammy the Steelhead makes appearances in each annual report. Annual reports must include specific information about all events and programs cosponsored by the County that are listed throughout the SWMP, including the number and type of events/programs anticipated for the upcoming year, and the County's role in those events and programs.
  - e. Add BMP PE12D to identify and rank all high tourist impact areas within the permit coverage area in permit year one, and revise each year if necessary. The list will be used to post pollution prevention signage at the top three tourist impact areas (BMP PE12C).
  - f. In BMP PE14B change the word promote to publicize.
  - g. For BMP PE 15B the County must clarify that it will establish the speaker's bureau in permit year one and maintain it annually. The County must clarify that it will track the number of available speakers and utilization of the speaker's bureau annually.

- h. For BMP PE18A the County must track the number of mutt mitts supplied annually. For BMP 18B the County must annually track the number and type of enforcement actions beginning in permit year three.
- i. The County must clarify that it will identify high impact areas in the permit coverage area in year one and will provide interpretive signage in all high impact areas beginning in year two for BMP PE19H.
- j. The County must specify, in BMP PE25D, that the Clean Water Business Recognition Award and Certification program will be developed in permit year one and will be implemented beginning in permit year two. The County must provide a description of the program in the first annual report.
- k. The County must require storm drain marking on all new development projects with storm drains for BMP PP4B.
- l. BMP PP4C must include a provision to provide a storm drain marker maintenance schedule in the first annual report.
- m. The County must clarify that the ordinance drafted and adopted for BMP IL1A will include progressive penalties and enforcement provisions and that ordinance enforcement will begin as soon as it is adopted.
- n. The County must include a commitment, in BMP IL4C, to implement the enforcement and penalty provisions of the adopted ordinance from BMP IL1 in permit years three through five.
- o. The County must include a BMP in IL4 to train restaurant health inspectors in illicit discharge detection and elimination. The County must inspect 100% of restaurants annually through the health inspection program. Health inspectors will report all storm water violations to the Public Works Department for follow-up. For violations that occur within the permit coverage area, the County must follow up on all reports, and include response actions and response times in the Annual Report.
- p. The County must include a BMP in IL4 to train CUPA inspectors in illicit discharge detection and elimination. CUPA inspectors must report all storm water violations to the Public Works Department for follow-up. For violations that occur within the permit coverage area, the County must follow up on all reports, and include response actions and response times in the Annual Report.

- q. Add to IL6A: "Correct 100% of problems detected in the audit."
- r. The County must ensure septic system inspections (BMP IL7C) are conducted by qualified County personnel or by contractors with a C42 contractor's license. Inspection reports shall include, at a minimum, all information on the San Luis Obispo County Septic Tank Inspection Form and Septic Verification Form. The County must identify, map and inspect both private and County owned septic systems.
- s. In conjunction with BMP IL8, the County must develop and implement a plan to address illegal dumping in all permit areas, including periodic inspections, cleanup, and criminal or civil penalties. The County must develop the plan by permit year three and implement the plan in permit years three through five.
- t. The County must commit to respond to 100% of storm water reports associated with the Pollution Prevention Hotline in BMP IL3C.
- u. Clarify that the County will revise the grading ordinances in BMP CON1A by the end of permit year two.
- v. Clarify that the County will establish protocols to ensure construction project proponents have coverage under the General Stormwater Construction Permit in permit year one and implement protocols in permit years two through five for BMP CON2B.
- w. For BMP CON3A the County must create procedures for construction site inspections in permit year one and implement those procedures in permit years two through five. This schedule must include hiring (if necessary) and training all inspectors in permit year two.
- x. On page 59 of section 4, BMP CON6A does not contain an implementation timetable. The County must include a timetable in for CON6, which includes annual implementation starting in permit year one.
- y. The County must indicate, in BMP CON7B, that they will respond to 100% of citizen reports.
- z. The County must clarify, in BMP PC1A, that they will adopt the final ordinance/revisions and begin enforcement by the end of permit year three.
- aa. The County must clarify that the revised CEQA checklist for BMP PC2A will be implemented by the end of permit year three.

- bb. The County must include language in BMP PC5A indicating that compliance with the Attachment 4 design standards required in the ordinance described in PC1 will be mandatory for all new projects one acre or more in size and smaller projects that are part of a larger common plan of development that is one acre or larger. The LID Design Manual is required to provide design specifications and guidance to help project proponents achieve compliance with the ordinance.
- cc. Indicate, in BMP PC9A, that the County will include policies for post-construction stormwater management in the revised Conservation Element of the General Plan. Policies are codified and enforced through County ordinances.
- dd. For BMP MO1B, clarify that each County municipal operations employee will be trained annually.
- ee. As a part of BMP MO2A the County must identify heavily soiled areas or other areas that will require street sweeping more frequently than quarterly. The County must explain how they will identify areas for more frequent street sweeping in BMP MO2A. The County must include a BMP for sweeping County-owned parking lots and include parking lots in the frequency analysis in BMP MO2A. The County must commit to track curb miles swept and the amount of material collected annually.
- ff. In BMP MO3A the County must clarify that the storm sewer collection system inspection program will include inspecting all catch basins and other storm drain components twice per year. Catch basins and other storm drain components will be cleaned at least twice per year unless the inspections demonstrate that cleaning is not necessary.
- gg. Clarify that for BMP MO5B the County will develop road and bridge maintenance procedures in permit year two and will begin implementing the procedures in permit year two.
- hh. The County must commit to responding to 100% of noncompliance conditions and tracking all noncompliance, corrective, or preventive action and response times associated with County facility inspections for BMP MO6.
- ii. The County must commit to maintaining oil water separator systems described in MO9 at least semi-annually.
- jj. The County must include a BMP to provide at least 30-day public comment period before adoption of each of the following. Notice shall

be provided (but not limited) to the Central Coast Water Board's list of interested parties: illicit discharge ordinance (IL1); pet waste ordinance (IL11); grading ordinance (CON1A); inspection procedure and protocol (CON3A); post construction ordinance revisions (PC1A); LID design manual (PC5); and Conservation Element (PC8A).

kk. In BMP IL1C, require evaluation of violation **and response** types.

ll. In BMP PC4B the County must include language indicating that the self-certification must ensure adequate long-term maintenance of all post-construction BMPs through funding commitments, covenants, maintenance agreements, right-of-entry for inspection or other acceptable methods specified in the ordinance (See PC1A). (For years 1-2, certification will be based on SWMPPs.)

mm. The County must include a BMP in PC4 to inspect projects sites one acre or more in size for compliance with statewide General Construction Permit and SWPPP requirements for post construction BMPs starting in permit year two (i.e., these inspections must occur until the County begins the PC4A inspections to ensure ordinance compliance).

nn. The County must respond to all instances of non-compliance for BMPs MO4B-C and MO7C, and implement corrective actions on 100% of noncompliance issues.

oo. The County must distribute the educational and outreach information and guidance described in CON4 and CON5 to all project applicants, regardless of project size, and post a complete copy of the BMP manual (CON5A) on the website.

3. The County of San Luis Obispo shall provide a copy of the revised pages of the SWMP to the Water Board no later than April 30, 2007, pursuant to Water Code Section 13383.

Any person affected by this action may petition the State Water Board to review the action in accordance with section 13320 of the California Water Code and Title 23, California Code of Regulations, Section 2050. The State Board must receive the petition within 30 days of the date of this Resolution. Copies of the law and regulations applicable to filing petitions will be provided upon request.

I, Roger W. Briggs, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Central Coast Region, on March 23, 2007.

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Roger W. Briggs, Executive Officer

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